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FISCAL IMPACT STATEMENT

LS 6436 | **NOTE PREPARED:** Jan 31, 2012
BILL NUMBER: HB 1376 | **BILL AMENDED:** Jan 26, 2012

SUBJECT: State Fiscal Matters.

FIRST AUTHOR: Rep. Espich | **BILL STATUS:** As Passed House
FIRST SPONSOR: Sen. Kenley

FUNDS AFFECTED: X GENERAL | **IMPACT:** State
X DEDICATED
FEDERAL

Summary of Legislation: *Excess State Reserves Transfer/Automatic Taxpayer Refund:* The bill provides for an automatic refundable tax credit to Indiana residents when the state has excess reserves of at least $20,000,000.

Payments to Victims of State Fair Stage Collapse: The bill increases the maximum amount that may be paid for injury or death in a tort claim against a governmental entity or public employee for death or injury occurring as the result of an accident at the State Fair from $5,000,0000 to $10,000,000.

Full-Day Kindergarten: The bill provides procedures for the settlement of claims. It permits augmentation of the appropriation for full-day kindergarten and changes the amount distributed per child.

Effective Date: Upon Passage; January 1, 2012 (Retroactive).

Explanation of State Expenditures: *Excess State Reserves Transfer:* The bill changes the excess state reserve transfer requirements and amount of transfers to the automatic taxpayer refund and the Pension Stabilization Fund. It is estimated that these changes would reduce the expected excess reserve transfer to the Pension Stabilization Fund by $48.1 M to $50.8 M in FY 2013. The impact of these changes on excess reserve transfers in subsequent years is indeterminable.

Full-Day Kindergarten: The bill provides a full-day kindergarten grant of $2,400 for each kindergarten student enrolled in a full-day program for the 2012-13 school year. It allows augmentation of the current appropriation ($89.1 M) to fully fund the grant.

For the 2011-12 school year, there are 67,752 students attending a full-day kindergarten program, and 66,401 of those students are funded by the state full-day kindergarten grant. The total number of kindergarten students in the 2011-12 school year is 78,154. The augmentation required could range between about $78.3 M ($2,400*66,752 - $81.9 M) and $105.7 M ($2,400*78,154 - $81.9 M).

Payments to Victims of State Fair Stage Collapse: Under current law, the maximum amount that the state General Fund will pay to persons who are killed or injured in a single occurrence is $5 M. This provision would permit the Office of the Attorney General to attempt to resolve all claims and suits brought against the state due to the stage collapse at the Indiana State Fair on August 26, 2011.

The Office of the Attorney General reports that there were seven claims filed for the estates of persons killed and 57 claims filed by persons who were physically injured. This provision divides payments into three basic categories for determining the compensation to each victim. The payments shown in the following table were estimated by the Office of the Attorney General based on whether the person was killed or injured and, if injured, the extent of each person's injury.

	Number of Persons	**Total Payments**	**Average Payment**
Persons Killed	7	$4,900,000	$700,000
Physical Injury Resulting in Permanent Paralysis or Trauma or Requiring Major Long-Term Care	3	$2,100,000	$700,000
Physical Injury	52	$3,000,000	$57,692
Totals	62	$10,000,000	

Background Information: The bill makes the following changes to current statute relating to excess state reserve transfers.

(1) It changes the requirements for transfers to be made from excess reserves to the automatic taxpayer refund and the Pension Stabilization Fund effective beginning in FY 2013. Under current statute, reserves ending the prior fiscal year that exceed 10% of the current fiscal year general revenue appropriations are to be transferred to the automatic taxpayer refund and the Pension Stabilization Fund. The bill provides that such transfers will not occur unless the excess reserves are equal to or exceed $20 M.

(2) It changes the transfer amounts to the automatic taxpayer refund and the Pension Stabilization Fund in the event excess reserve transfers are allowed beginning in FY 2013. The transfer formula is specified below in (A) through (C), with the table below presenting transfer scenarios depending on the excess reserve total.

(A) If the excess reserves are less than or equal to $50 per resident taxpayer, all of the reserves would be transferred to the automatic taxpayer refund.

(B) If the excess reserves are greater than $50 per resident taxpayer but not greater than $100 per resident taxpayer, excess reserves would be transferred to the automatic taxpayer refund sufficient to provide a refund equal to $50 per resident taxpayer, with the balance transferred to the Pension Stabilization Fund.

(C) If the excess reserves are greater than $100 per resident taxpayer, the transfer would proceed as under (B) but excess reserves exceeding $100 per taxpayer would be divided equally between the automatic taxpayer refund and the Pension Stabilization Fund.

Excess Reserves	**$100 M**	**$200 M**	**$300 M**	**$400 M**	**$500 M**	**$600 M**
Resident taxpayers	4 M	4 M	4 M	4 M	4 M	4 M
Automatic taxpayer refund credit	$25	$50	$50	$50	$62.50	$75
Total to automatic taxpayer refund	$100 M	$200 M	$200 M	$200 M	$250 M	$300 M
Total to Pension Stabilization Fund	$0	$0	$100 M	$200 M	$250 M	$300 M

It is estimated that under current statute, the excess reserve transfer could total $333.6 M in FY 2013 according to the Combined Statement of Estimated Unappropriated Reserve (December 14, 2011). This would result in transfers to the automatic taxpayer refund and the Pension Stabilization Fund of $166.8 M each in FY 2013. Under current statute, if the total amount of state reserves at the end of the preceding fiscal year exceeds 10% of the general revenue appropriations for the current fiscal year, the amount exceeding 10% of the general revenue appropriations must be transferred as follows: (1) 50% to the Pension Stabilization Fund and (2) 50% to the automatic taxpayer refund.

The bill also provides for an additional $5 M in payments to State Fair stage collapse victims. It is assumed that these payments will be dispersed in FY 2012. The bill also augments appropriations for full-day kindergarten in FY 2013 with an estimated cost of $78.3 M to $105.7 M. Based on these expenditure changes, it is estimated that the excess reserve transfer in FY 2013 could range from $316.0 M to $318.7 M. It is estimated that $200 M would be required for the automatic taxpayer refund, with the remaining $116.0 M to $118.7 M being transferred to the Pension Stabilization Fund. Under current statute, the FY 2013 state reserve is estimated to total $1,765.3 M. With the changes in the bill, the FY 2013 reserve is estimated to total $1,472.2 M to $1496.9 M. It is indeterminable whether the FY 2013 excess reserves will be sufficient to permit excess reserve transfers in FY 2014.

Explanation of State Revenues: *Automatic Taxpayer Refund:* The bill would change the calculation of: (1) the total excess reserve dedicated to the automatic taxpayer refund; (2) the calculation of the automatic taxpayer refund tax credit per taxpayer; and (3) make the tax credit refundable. These changes would be effective beginning in tax year 2012 for excess reserve transfers made beginning in FY 2013. It is estimated that the bill would provide for a total of $200 M in refundable individual adjusted gross income (AGI) tax credits. This would be an increase in revenue loss from the credit in comparison to current statute by an estimated $33.2 M. The revenue loss is expected in FY 2013.

Background Information: Under current statute unchanged by the bill, the automatic taxpayer refund is provided through an individual AGI tax credit. The tax credit is nonrefundable and must be taken against the taxpayer's tax liability in the tax year the credit is provided. In addition, the tax credit is based on each taxpayer's relative share of the total overall tax liability for all eligible taxpayers. To be eligible for the tax credit, a taxpayer must have filed a resident income tax return for the two taxable years preceding the tax year in which the tax credit is made available and must have paid individual income tax for the preceding taxable year. Under current statute, it is estimated that $166.8 M in excess reserves could be transferred to the automatic taxpayer refund.

The bill makes the tax credit refundable and provides for the tax credit to be distributed in an equal amount per taxpayer. (See *Explanation of State Expenditures* for a discussion of the formula that determines the total amount of excess state reserves transferred to the automatic taxpayer refund and the per taxpayer tax credit amount.) The bill also changes eligibility for the credit. To be eligible, a taxpayer must have filed a resident income tax return for the tax year immediately preceding the tax year in which the tax credit is made available. Also, since the credit is refundable, a taxpayer without a tax liability would receive automatic taxpayer refund credit dollars. Under this bill, it is estimated that $200 M would be claimed by the automatic taxpayer refund credit.

Explanation of Local Expenditures:

Explanation of Local Revenues: School corporations or charter schools that apply for the full-day kindergarten grants are prohibited from charging fees for enrolling in or attending full-day kindergarten in the 2012-2013 school year.

State Agencies Affected: OMB; DOR.

Local Agencies Affected:

Information Sources: General Fund Combined Statement of Estimated Unappropriated Reserve, FY 2012-FY 2013, State Budget Agency, December 14, 2011. OFMA Income Tax Databases, 2009.

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